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Misc. Legal/Congressional Information

Introductory Statement of The Honorable Angela M. Buchanan
Treasurer of the United States
For Presentation to the Subcommittee on Consumer Affairs
and Coinage

Mr. Chairman and Members of the Committee, I am pleased to be with you today to discuss the Bureau of the Mint's plans to modify the composition of the one-cent coin. I also very much appreciate your kind consideration in rearranging the Hearing schedule so that I could participate this morning.

The mission of the Mint is to provide our Nation with an uninterrupted supply of coins in quantities sufficient to satisfy the needs of commerce.

With our growing economy, this task has become more challenging. For example, during the past three years -- from calendar year 1977 to 1980 -- the Mint increased total production of circulating coinage from 11.5 billion to more than 16 billion, a 39 percent increase.

The largest increase in demand recently has been for the one-cent coin. Demand was so strong last year that we produced one-fourth more; pushing production levels to the limits of the Mint's capacity.

Normally, there is an eight percent annual growth in demand for the penny. Last year's large increase was caused principally by speculators withdrawing the penny from circulation in hopes of earning a profit due to skyrocketing copper prices.

The current one-cent coin is fabricated from an alloy of 95 percent copper and five percent zinc. We propose to change its composition to 97.6 percent zinc

and 2.4 percent copper. The new coin will be almost virtually identical in size and appearance to the current penny. But the modification to include a high proportion of zinc will make the intrinsic metallic value of the coin far less than its face value; greatly reducing our problems with speculators.

Volatile price changes in copper have made it difficult for the Mint to determine demand and stabilize production schedules. From December 1979 to February 1980, a period of only three months, the price of copper rose dramatically from 93 cents to $1.43 per pound.

When the price of copper rises above $1.00 a pound, the accompanying media publicity attracts hoarding and results in a significant increase in demand. During the first quarter of calendar year 1980, demand for the penny was 74 percent higher than the same period in 1979.

Copper prices have since declined to the current level of about 86 cents a pound and demand has slackened. However, demand still remains significantly stronger than prior to the price rise in 1980.

The same phenomenon of extraordinary demand occurred in 1974 when copper prices reached a peak of $1.41 a pound.

When copper prices rise about $1.12 a pound, the total cost to produce a penny exceeds its face value. The intrinsic value of the copper in the penny exceeds its face value when that metal rises above $1.50 a pound.

Speculative withdrawal of one-cent coins from circulation and the resulting high demand levels can be expected to occur again when the price of copper increases above $1.00 a pound. While the price of copper has decreased from the highest level of February 1980 to the present 80 to 95 cent range, the volatility of copper prices is troublesome and the long-term price trend is upward. A pickup in home building and an upturn in the economy increases the demand for copper, resulting in high prices.

If copper would climb above $1.50 a pound, we estimate that the resulting demand for the penny as presently minted would increase drastically above our production capacity. The Mint would be unable to satisfy the demand at any cost -- including additional work shifts and overtime -- and a severe shortage would occur. Then too, once a shortage appears, there is additional speculation, further escalating demand.

The long-term solution is to modify the one-cent coin so that its intrinsic metallic value is far less than its face value. And we believe that the time to act is now.

The Mint conducted an extensive research study of several alternative materials for the one-cent coin. It considered cost, availability, and permanence of the materials; die usage and energy required to make the new coins, and the public's acceptance.

We have now concluded that the best composition would be a one-cent composed of 99.2 percent zinc and eight-tenths percent copper with additional copper electroplated onto the outside skin. This electroplating will make the new penny 97.6 percent zinc and 2.4 copper.

There will be several advantages for minting a penny with this composition:

One, there will be substantial cost savings. The price of zinc has ranged from 20 to 50 percent of the price of copper during the past 20 years. In 1980, when copper rose to $1.43 a pound, zinc never was higher than 42 cents.

At current price levels for copper and zinc, we will save $25 million a year by going to the new penny. With copper at $1.12 a pound, which is when our production cost exceeds face value, we would save $50 million.

Two, zinc prices and supplies historically have been far more stable than that of copper. World copper supplies and prices are heavily dependent on some countries which have had periods of political instability and severe work stoppages in their mines.

Although the United States imports about 60 to 65 percent of its zinc needs, most comes from stable foreign sources such as Canada and Mexico.

Three, the new penny will be almost identical to the present one-cent coin. I have samples of both coins with me which show that the size, color and coin design are the same.

Four, public acceptance will be high because it will be difficult to distinguish between the two coins and we propose to phase in the new penny over the next two years.

Five, our present coin dies for making the penny will work very well and die wear will be about the same; thus production costs will remain low.

Six, the new copper plated zinc alloy penny has good wear resistance, comparable to that of the current coin.

Seven, there is a spectacular decrease in the amount of energy expended in mining, refining, transporting and handling zinc as compared with copper. Because the new coins will be nearly 20 percent lighter, we will save energy and money in minting, shipping and handling the new coin.

These seven reasons support the Department of the Treasury's selection of the zinc alloy alternative, with copper plating, for the new one-cent coin. However, the copper plated cent will weigh 19 percent less than the current penny. This weight difference will result in some inconvenience to banks and retail stores that count one-cent coins by weight. This problem will continue until the current cent is fully withdrawn from circulation; about three years. In the meantime, banks and stores can use counting machines.

Despite its lighter weight, the new penny will create no problems for the coin slug discriminators used in vending machines or coin processing equipment used by banks and retailers.

We plan to begin phasing in the copper plated one-cent coins this fall. The major reason for phasing is to allow time to develop additional copper plating capacity.

At first, 30 percent of our total production of pennies will be the new coin. By the end of 1982, all new one-cent coins will be made from the same material. The Federal Reserve System plans to distribute the new penny as it becomes available from the Mint.

May I turn for a moment to the subject of hoarding? It is a problem and came to light especially last year when copper prices rose so dramatically. Presently, the Federal Reserve System, working with the Mint, allocates pennies to insure that they go to legitimate users — stores and businesses — and avoids paying out large quantities to speculators who may be seeking the coins for resale at a premium. This step has proven extremely effective. The only way to distinguish the old and new penny, apart from weighing them individually, will be by date. By producing one-cent coins of both materials with the same date over the next two years, we will help curtail the speculative withdrawal of the old penny from circulation.

In conclusion, I wish to emphasize the primary concern of the Treasury Department. It is only by changing the composition of the penny that we can assure the uninterrupted supply of coins sufficient to satisfy the needs of commerce.

Mr. Chairman, this concludes my prepared remarks. Now, I would be pleased to respond to questions from you and the distinguished members of this Committee.

Title 31 excerpts

Following are sections of Chapter 51 of Title 31, United States Code, germaine to coinage and affected by the Statue of Liberty commemorative coinage law and potentially by the anti-apartheid legislation currently under debate in the Senate. Amendments made by the Statue of Liberty law are highlighted by a ruled box; proposed changes under the anti-apartheid bill are highlighted by a gray screen.

Sec. 5101. Decimal system

United States money is expressed in dollars, dimes or tenths, cents or hundredths, and mills or thousandths. A dime is a tenth of a dollar, a cent is a hundredth of a dollar, and a mill is a thousandth of a dollar.

Sec. 5102. Standard weight

The standard troy pound of the National Bureau of Standards of the Department of Commerce shall be the standard used to ensure that the weight of the United States coins conforms to specifications in Section 5112 of this title.

Sec. 5103. Legal tender

United States coins and currency (including Federal Reserve notes and circulating notes of Federal Reserve banks and national banks) are legal tender for all debts, public charges, taxes, and dues. Foreign gold or silver coins are not legal tender for debts.

Sec. 5111. Minting and issuing coins, medals, and numismatic items

(a) The Secretary of the Treasury —

(1) shall mint and issue coins described in Section 5112 of this title in amounts the Secretary decides are necessary to meet the needs of the United States;

(2) may prepare national medal dies and strike national and other medals if it does not interfere with regular minting operations but may not prepare private medal dies;

(3) may prepare and distribute numismatic items; and

(4) may mint coins for a foreign country if the minting does not interfere with regular minting operations, and shall prescribe a charge for minting the foreign coins equal to the cost of the minting (including labor, materials, and the use of machinery).

(b) The Department of the Treasury has a coinage metal fund and a coinage profit fund. The Secretary may use the coinage metal fund to buy metal to mint coins. The Secretary shall credit the coinage profit fund with the amount by which the nominal value of the coins minted from the metal exceeds the cost of the metal. The Secretary shall charge the coinage profit fund with waste incurred in minting coins and the cost of distributing the coins. The Secretary shall deposit in the Treasury as miscellaneous receipts excess amounts in the coinage profit fund.

(c) The Secretary may make contracts on conditions the Secretary decides are appropriate and in the public interest to acquire equipment, manufacturing facilities, patents, patent rights, technical knowledge and assistance, and materials necessary to produce rapidly an adequate supply of coins referred to in Section 5112(a)(1)-(4) of this title.

(d)(1) The Secretary may prohibit or limit the exportation, melting, or treatment of United States coins when the Secretary decides prohibition or limitation is necessary to protect the coinage of the United States.

(2) A person knowingly violating an order or license issued or regulation prescribed under Paragraph (1) of this subsection, shall be fined not more than $10,000, imprisoned not more than 5 years, or both.

(3) Coins exported, melted, or treated in violation of an order or license issued or regulation prescribed, and metal resulting from the melting or treatment, shall be forfeited to the United States government. The powers of the Secretary and the remedies available to enforce forfeitures are those provided in Part II of Subchapter C of Chapter 75 of the Internal Revenue Code of 1954 (26 U.S.C. 7321 et seq.).

Sec. 5112. Denominations, specifications, and design of coins

(a) The Secretary of the Treasury may mint and issue only the following coins:

(1) a dollar coin that is 1.043 inches in diameter and weighs 8.1 grams.

(2) a half dollar coin that is 1.205 inches in diameter and weighs 11.34 grams.

(3) a quarter dollar coin that is 0.955 inch in diameter and weighs 5.67 grams.

(4) a dime that is 0.705 inch in diameter and weighs 2.268 grams.

(5) a 5-cent coin that is 0.835 inch in diameter and weighs 5 grams.

(6) except as provided under subsection (c) of this section, a 1-cent coin that is 0.75 inch in diameter and weighs 3.11 grams.

(7) a fifty dollar gold coin that is 32.7 millimeters in diameter, weighs 33.931 grams, and contains one troy ounce of fine gold.

(8) a twenty-five dollar gold coin that is 27.0 millimeters in diameter, weighs 16.966 grams, and contains one-half troy ounce of fine gold.

(9) a ten dollar gold coin that is 22.0 millimeters in diameter, weighs 8.483 grams, and contains one-fourth troy ounce of fine gold.

(10) a five dollar gold coin that is 16.5 millimeters in diameter, weighs 3.393 grams, and contains one-tenth troy ounce of fine gold.

(b) The dollar, half dollar, quarter dollar, and dime coins are clad coins with three layers of metal. The two identical outer layers are an alloy of 75 percent copper and 25 percent nickel. The inner layer is copper. The outer layers are metallurgically bonded to the inner layer and weigh at least 30 percent of the weight of the coin. The 5-cent coin is an alloy of 75 percent copper and 25 percent nickel. In minting 5-cent coins, the Secretary shall use bars that vary not more than 2.5 percent from the percent of nickel required. Except as provided under subsection (c) of this section, the 1-cent coin is an alloy of 95 percent copper and 5 percent zinc. The specifications for alloys are by weight.

(c) The Secretary may prescribe the weight and the composition of copper and zinc in the alloy of the 1-cent coin that the Secretary decides are appropriate when the Secretary decides that a different weight and alloy of copper and zinc are necessary to ensure an adequate supply of 1-cent coins to meet the needs of the United States.

(d)(1) United States coins have the inscription IN GOD WE TRUST. The obverse side of each coin has the inscription LIBERTY. The reverse side of each coin has the inscriptions UNITED STATES OF AMERICA and E PLURIBUS UNUM and a designation of the value of the coin. The design on the reverse side of the dollar, half dollar, and quarter dollar is an eagle. The eagle on the reverse side of the dollar is the symbolic eagle of Apollo 11 landing on the moon. The obverse side of the dollar has the likeness of Susan B. Anthony. The coins have an inscription of the year

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revised Title 31 will show no reference to a Statue of Liberty commemorative coins.

The second part of the legislation, call for a silver bullion coin, is a more long-te project and is codified. Its inclusion repla legislation for 40 percent silver Eisenhow dollars, formerly Sec. 5112(e), and Geo Washington commemorative half dollars, f merly Sec. 5112(f).

Section 5112(e)-(h) sets down the dim sions and specifics of the silver bullion co The phrase "Notwithstanding any other pro sion of law" in subsection (e) allows the co to be "legal" without revising Sec. 5112(a)((b) and (c). This is a common tactic used amending legislation; also used is "notwi standing Section such-and-such," where particular section is singled out and an exc tion made to it.

The silver bullion coin will be the first U ed States dollar to be 40.6 millimeters in ameter, the first of .999 fine silver and first to bear the legend 1 OZ. FINE SILVER

Section 5112(g) specifies that the bull coins are to be referred to as numisma items, a definition contrary to many coll tors' thinking. However, "numismatic iter is a phrase used in Title 31 to refer to pr ucts of the United States Mint, including Pr and Uncirculated coins, medals, numisma accessories, etc.

By classing the bullion coins with the Mi other "numismatic items," the costs of p paring and marketing the coins will be c ered by the profits from their sale.

Section 5112(h) makes the silver bull coins, and all other coins described in Title, legal tender, as described in Sect 5103.

Section 5116(b)(1), refering to procedu by which the Secretary of the Treasury m buy silver, changes the first sentence fr "The Secretary shall . . ." to "The Secret may, . . ." giving him discretionary powers.

Section 5116(b)(2) presents a seeming consistency. The first sentence says the Sec tary may sell or use government silver to m coins, except that silver in the nation's stra gic stockpiles. The second sentence then ders him to use stockpile silver for the sil bullion coins.

Two rules of statutory construction gov the apparent dilemma: the specific gove

Postal judge 35 Verret co

Upholding 35 of 36 complaints of false representation, Administrative Law Judge William Duvall ruled Aug. 12 that U.S. Coin Reserve and Verret Enterprises Inc. of Beaumont, Texas, must desist from its advertising of silver dollars and Kennedy half dollars because the advertising was found to be misleading.

The decision by Duvall on two groups of complaints regarding the firm's advertising of Morgan and Peace silver dollars and another group centering on its Kennedy half dollar ads, culminated a process which began Oct. 27, 1984, when the Consumer Protection Division of the United States Postal Service filed an administrative complaint against Richard and Milton Verret and their company.

Verret Enterprises had been advertising rare and high quality Morgan and Peace silver dollars and Mint State 70 Kennedy half dollars whose dates were selected at random from a published list, including the 1895 Morgan dollar, a coin

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of minting or issuance. However, to prevent or alleviate a shortage of a denomination, the Secretary may inscribe coins of the denomination with the year that was last inscribed on coins of the denomination.

(2) The Secretary shall prepare the devices, models, hubs, and dies for coins, emblems, devices, inscriptions, and designs authorized under this chapter. The Secretary may adopt and prepare new designs or models of emblems or devices that are authorized in the same way as when new coins or devices are authorized. The Secretary may change the design or die of a coin only once within 25 years of the first adoption of the design, model, hub, or die for that coin. The Secretary may procure services under Section 3109 of Title 5 in carrying out this paragraph.

(e) Notwithstanding any other provision of law, the Secretary shall mint and issue, in quantities sufficient to meet public demand, coins which —

(1) are 40.6 millimeters in diameter and weigh 31.103 grams;

(2) contain .999 fine silver;

(3) have a design —

(A) symbolic of Liberty on the obverse side; and

(B) of an eagle on the reverse side;

(4) have inscriptions of the year of minting or issuance, and the words "Liberty", "In God We Trust", "United States of America", "1 Oz. Fine Silver", "E Pluribus Unum", and "One Dollar"; and

(5) have reeded edges.

(f) The Secretary shall sell the coins minted under Subsection (e) to the public at a price equal to the market value of the bullion at the time of the sale, plus the cost of minting, marketing, and distributing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

(g) For purposes of Section 5132(a)(1) of this title, all coins minted under Subsection (e) of this section shall be considered to be numismatic items.

(h) The coins issued under this title shall be legal tender as provided in Section 5103 of Title 31, United States Code.

(i)(1) Notwithstanding Section 5111(a)(1) of this title, the Secretary shall mint and issue the gold coins described in Paragraphs (7), (8), (9), and (10) of Subsection (a) of this section, in quantities sufficient to meet public demand, and such gold coins shall —

(A) have a design determined by the Secretary, except that the fifty dollar gold coin shall have —

(i) on the obverse side, a design symbolic of Liberty; and

(ii) on the reverse side, a design representing a family of eagles, with the male carrying an olive branch and flying above a nest containing a female eagle and hatchlings;

(B) have inscriptions of the denomination, the weight of the fine gold content, the year of minting or issuance, and the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum"; and

(C) have reeded edges.

(2)(A) The Secretary shall sell the coins minted under this subsection to the public at a price equal to the market value of the bullion at the time of sale, plus the cost of minting, marketing, and distributing such coins (including labor, materials, dies, use of machinery, and promotional and overhead expenses).

(B) The Secretary shall make bulk sales of the coins minted under this subsection at a reasonable discount.

(3) For purposes of Section 5132(a)(1) of this title, all coins minted under this subsection shall be considered to be numismatic items.

Sec. 5116. Buying and selling gold and silver

(a)(1) With the approval of the president, the Secretary of the Treasury may —

(A) buy and sell gold in the way, in amounts, at rates, and on conditions the Secretary considers most advantageous to the public interest; and

(B) buy the gold with any direct obligations of the United States government or United States coins and currency authorized by law, or with amounts in the Treasury not otherwise appropriated.

(2) Amounts received from the purchase of gold are an asset of the general fund of the Treasury. The Secretary shall acquire the gold for the coins issued under Section 5112(i) of this title by purchase only from natural deposits in the United States or in a territory or possession of the United States, or from reserves of gold held by the United States. Amounts received from the sale of gold shall be deposited in the general fund of the Treasury.

(b)(1) The Secretary may buy silver mined from natural deposits in the United States, or in a territory or possession of the United States, that is brought to a United States Mint or assay office within one year after the month in which the ore from which it is derived was mined. The Secretary may use the coinage metal fund under Section 5111(b) of this title to buy silver under this subsection.

(2) The Secretary may sell or use government silver to Mint coins, except silver transferred to stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.). The Secretary shall obtain the silver for the coins authorized under Section 5112(e) of this title by purchase from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.). The Secretary shall sell silver under conditions the Secretary considers appropriate for at least $1.292929292 a fine troy ounce.

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The Scarce

ATTENTION INVESTORS

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Sec. 5118. Gold clauses and consent to sue

(a) In this section —

(1) "gold clause" means a provision in or related to an obligation alleging to give the obligee a right to require payment in —

(A) gold;

(B) a particular United States coin or currency; or

(C) United States money measured in gold or a particular United States coin or currency.

(2) "public debt obligation" means a domestic obligation issued or guaranteed by the United States government to repay money or interest.

(b) The United States government may not pay out any gold coin. A person lawfully holding United States coins and currency may present the coins and currency to the Secretary of the Treasury for exchange (dollar for dollar) for other United States coin and currency (other than gold and silver coins) that may be lawfully held. The Secretary shall make the exchange under regulations prescribed by the Secretary.

(c)(1) The government withdraws its consent given to anyone to assert against the government, its agencies, or its officers, employees, or agents, a claim —

(A) on a gold clause public debt obligation or interest on the obligation;

(B) for United States coins or currency; or

(C) arising out of the surrender, requisition, seizure, or acquisition of United States coins or currency, gold, or silver involving the effect or validity of a change in the metallic content of the dollar or in a regulation about the value of money.

(2) Paragraph (1) of this subsection does not apply to a proceeding in which no claim is made for payment or credit in an amount greater than the face or nominal value in dollars of public debt obligations or United States coins or currency involved in the proceeding.

(3) Except when consent is not withdrawn under this subsection, an amount appropriated for payment on public debt obligations and for United States coins and currency may be expended only dollar for dollar.

(d)(1) In this subsection, "obligation" means any obligation (except United States currency) payable in United States money.

(2) An obligation issued containing a gold clause or governed by a gold clause is discharged on payment (dollar for dollar) in United States coin or currency that is legal tender at the time of payment. This paragraph does not apply to an obligation issued after October 27, 1977.

Sec. 5132. Administrative

(a)(1) Except as provided in this chapter, the Secretary of the Treasury shall deposit in the Treasury as miscellaneous receipts amounts the Secretary receives from the operations of the Bureau of the Mint. However, amounts from numismatic items shall be reimbursed to the current appropriation used to pay the cost of preparing and selling the items. The Secretary shall annually sell to the public, directly and by mail, sets of uncirculated and proof coins minted under paragraphs (1) through (6) of Section 5112(a) of this title, and shall solicit such sales through the use of the customer list of the Bureau of the Mint. The Secretary may not use amounts the Secretary receives from profits on minting coins or from charges on gold and silver bullion under Section 5122 of this title to pay officers and employees.

(2) **[Editor's note: This paragraph refers to the annual appropriation for the Mint. The amount and effective dates change annually]** Not more than $50,165,000 may be appropriated to the Secretary for the fiscal year ending September 30, 1983, to pay costs of the mints and assay offices.

(b) To the extent the Secretary decides it is necessary, the Secretary may use amounts received from depositors for refining bullion and the proceeds from the sale of byproducts (including spent acids from surplus bullion recovered in refining processes) to pay the costs of refining the bullion (including labor, material, waste, and loss on the sale of sweeps). The Secretary may not use amounts appropriated for the mints and assay offices to pay those costs.

(c) The Secretary shall make an annual report at the end of each fiscal year on the operation of the Bureau.

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